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Paper No. 8

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In re Application of: G. M. Cornuejols et al.)	DECISION ON PETITION TO MAKE
Application No. 09/719,567)	SPECIAL UNDER 37 C.F.R. §1.102(d)
Filed: December 29, 2000)	AND MPEP § 708.02 (I) AND (VIII):
For: COMMUNICATIONS METHOD)	MANUFACTURE AND
AND DEVICE)	ACCELERATED EXAMINATION

This is a decision on the petition, filed July 23, 2003 under 37 C.F.R. §1.102(D) and M.P.E.P. §708.02(I): Manufacture and M.P.E.P. 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

I. Manufacture

In compliance with M.P.E.P. § 708.02(I), the petition must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(h) and a statement by the applicant, assignee or attorney/agent registered to practice before the Office alleging:

(A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted.

If the prospective manufacturer is an individual, there must be a corroborating affidavit from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;

(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity

immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition does not meet the requirements for special status inasmuch as there is no statement by the applicant addressing the required items of paragraphs (A), (B), (C), or (D) above, and Applicant has not submitted references as required in the preceding paragraph.

II. Accelerated Examination

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated.*** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the

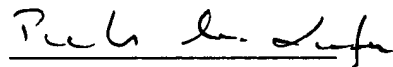
request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that there is no identification of which references are deemed most closely related, no detailed discussion of the references deemed most closely related and no discussion pointing out how the *claimed subject matter is patentable over the references*. That is, there is no detailed discussion of the references as required by section (e) does not have the particularity required by 37 CFR 1.111(b) and (c).

The undersigned notes that although the petition states "Applicant submits three Search Reports made by the European Patent Office and a detailed discussion of each reference cited in those Search Reports", the file only contains a single IPER (not a search report) and no paper discussing any references.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.



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